

**Congress of the United States**  
**Washington, DC 20515**

December 27, 2009

The Honorable Eric Holder  
Attorney General of the United States  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530-0001

Dear Mr. Attorney General:

We are writing regarding the U.S. Department of Justice's policies and procedures for determining when it will seek the death penalty in connection with a federal offense for which the death penalty may be sought. Because the death penalty is a punishment that many in our nation find deeply troubling, we respectfully request that the Department's policies and procedures be amended to require that the Department consider a state's or territory's opposition to the death penalty as an important factor militating against the government's seeking the death penalty for an offense that took place in that jurisdiction.

The Department's *United States Attorneys' Manual* sets forth the policies and procedures that inform the Department's decision whether to seek the death penalty for a death-eligible federal offense. Those policies and procedures direct the Department's attorneys to consult with the family of the victim<sup>1</sup> and to seek an indictment for an offense subject to the death penalty "generally . . . only when the Federal interest in the prosecution is more substantial than the interests of the State or local authorities."<sup>2</sup>

We submit that a state's or territory's authorization (or lack thereof) of the death penalty should constitute an additional factor in the Department's determination of whether to seek an indictment for an offense subject to the death penalty. By instructing federal prosecutors to consult with the family of the victim on whether the death penalty should be sought, the Department recognizes that those most affected by the offense have an interest in whether the Department decides to seek the death penalty. Plainly, the local community where the offense took place is deeply affected by that offense—and by the punishment imposed. As a result, the Department should fully consider the community's views—reflected in that state's or territory's laws concerning the death penalty—as part of the Department's determination whether to seek the death penalty. Where a state or territory does not authorize imposition of the death penalty, the Department should refrain from seeking that punishment absent a compelling countervailing interest.

Thank you for your consideration of this issue.

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<sup>1</sup> U.S. DEP'T OF JUSTICE, UNITED STATES ATTORNEYS' MANUAL, Ch. 9-10.070 (updated June 2007).

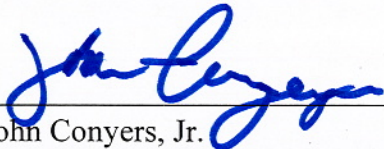
<sup>2</sup> *Id.* at Ch. 9-10.090 (updated June 2007).



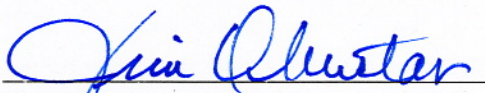
Sincerely,




Pedro R. Pierluisi  
Member of Congress



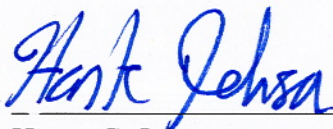
John Conyers, Jr.  
Member of Congress



James L. Oberstar  
Member of Congress



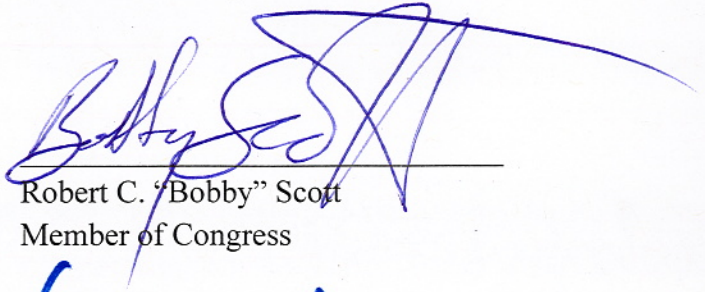
Jesse L. Jackson, Jr.  
Member of Congress



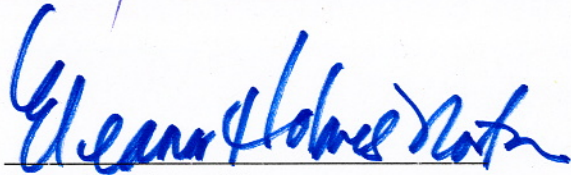
Henry C. Johnson  
Member of Congress



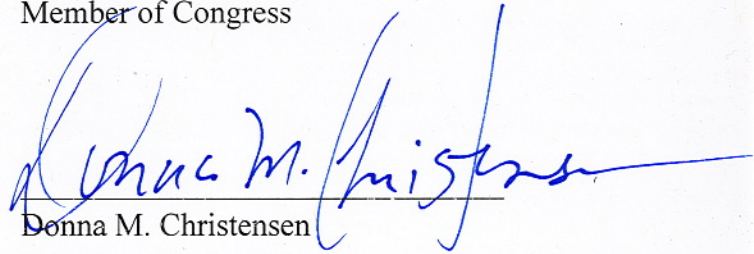
Bill Delahunt  
Member of Congress



Robert C. "Bobby" Scott  
Member of Congress



Eleanor Holmes Norton  
Member of Congress



Donna M. Christensen  
Member of Congress



Gregorio Kilili Camacho Sablan  
Member of Congress

cc: The Honorable David W. Ogden, Deputy Attorney General  
Chair, Sentencing and Corrections Working Group  
U.S. Department of Justice